

**REMARKS**

Claims 1, 3-6, 13, 14 and 16-32 are pending in the application, with claims 1, 13, 17 and 25 being independent.

Claim 14 is objected to under 37 C.F.R. §1.75.

Claims 1, 3-6, 13, 16, 23, 29 and 30 are allowed.

Claim 14 would be allowable if rewritten to overcome the Examiner's objection.

Claim 17 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. §112, ¶6.

Claims 18-23 and 31 would be allowable if rewritten to overcome the Examiner's rejection under 35 U.S.C. §112, ¶6.

Claim 25 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. §112, ¶2 and 35 U.S.C. §101.

Claims 26-28 and 32 would be allowable if rewritten to overcome the rejection under 35 U.S.C. §112, ¶2 and under 35 U.S.C. §101.

Claims 17-23, 25-28, 31-32 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 25-28 and 32 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter.

Each of the various rejections and objections are overcome by amendments that are made to the specification, drawing, and/or claims, as well as, or in the alternative, by various arguments that are presented.

Any amendments to any claim for reasons other than as expressly recited herein as being for the purpose of distinguishing such claim from known prior art are not being made with an intent to change in any way the literal scope of such claims or the range of equivalents for such claims. They are being made simply to present language that is better in conformance with the form requirements of Title 35 of the United States Code or are simply clearer and easier to understand than the originally presented language. Any amendments to any claim expressly made in order to distinguish such claim from known prior art are being made only with an intent to change the literal scope of such claim in the most minimal way, i.e., simply to avoid the prior art in a way that leaves the

claim novel and not obvious in view of the cited prior art, and no equivalent of any subject matter remaining in the claim is intended to be surrendered.

Also, because a dependent claim inherently includes the recitations of the claim or chain of claims from which it depends, it is submitted that the scope and content of any dependent claims that have been herein rewritten in independent form is exactly the same as the scope and content of those claims prior to having been rewritten in independent form. That is, although by convention such rewritten claims are labeled herein as having been "amended," it is submitted that only the format, and not the content, of these claims has been changed. This is true whether a dependent claim has been rewritten to expressly include the limitations of those claims on which it formerly depended or whether an independent claim has been rewritten to include the limitations of claims that previously depended from it. Thus, by such rewriting, no equivalent of any subject matter of the original dependent claim is intended to be surrendered. If the Examiner is of a different view, he is respectfully requested to so indicate.

#### **Rejection Under 35 U.S.C. §112**

Claims 17-23, 25-28, 31-32 are rejected under 35 U.S.C. §112, ¶2, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are amended to cure the informalities the Examiner indicates. Applicant submits that in view of Applicant's amendments above, the claims are in better condition for allowable.

#### **Claim Objection**

Claim 14 is objected to under 35 C.F.R. §1.75 as being a substantial duplicate of claim 16. Claim 14 is canceled without prejudice. Therefore, the objection should be withdrawn.

#### **Rejection Under 35 U.S.C. §101**

Claims 25-28 and 32 are rejected under 35 U.S.C. §101 as being directed to non-statutory subject matter. The claims are amended to recite:

“A computer non-transitory readable storage medium storing instructions, which, when executed by a processor, cause the processor to perform a method for analyzing a plurality of network elements configured to support at least one established communication path in a network”

The added “non-transitory” limitation narrows the claim to cover only statutory embodiments patentable under 35 U.S.C. § 101. Furthermore, since all of the dependent claims that depend from the independent claim include all the limitations of the respective independent claim from which they ultimately depend, each such dependent claim also is allowable under 35 U.S.C. §101. Therefore, the rejection should be withdrawn.

**Allowable Subject Matter**

**Claims 1, 3-6, 13, 16, 23, 29 and 30**

Applicant thanks the Examiner for the allowance of claims 1, 3-6, 13, 16, 23, 29 and 30. Applicant further submits that in view of Applicant’s amendments above, the remaining claims are also allowable.

Applicant believes that the record of the prosecution as a whole, including Applicant’s specification and claims, provides additional reasons for allowance. The Examiner’s Reasons for Allowance do not necessarily state all the reasons for allowance or all the details why the claims are allowed and, therefore, should not be used to interpret the scope of the claims in place of the record of the prosecution as a whole.

**Conclusion**

It is respectfully submitted that the Office Action's rejections have been overcome and that this application is now in condition for allowance. Reconsideration and allowance are, therefore, respectfully solicited.

If, however, the Examiner still believes that there are unresolved issues, the Examiner is invited to call Eamon Wall at (732) 542-2280 x 120 so that arrangements may be made to discuss and resolve any such issues.

Respectfully submitted,

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Eamon J. Wall  
Registration No. 39,414  
Attorney for Applicant

WALL & TONG, LLP  
25 James Way  
Eatontown, New Jersey 07724  
Telephone: 732-542-2280  
Facsimile: 732-542-2283